

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

HARRY L. SAMUEL,)
)
Plaintiff,)
)
v.) Civ. No. 05-37-SLR/SRF
)
FIRST CORRECTIONAL MEDICAL,)
)
Defendant.)

O R D E R

WHEREAS, Magistrate Judge Sherry R. Fallon issued a Report and Recommendation (D.I. 158) dated February 4, 2014, recommending that the court deny plaintiff's motion to satisfy the judgment (D.I. 156)¹;

WHEREAS, on February 18, 2014, plaintiff submitted objections (D.I. 159)² to the Report and Recommendation, arguing that: (1) the "warden had actions and personal involvement in the unconstitutional conduct" unprotected by the 11th Amendment; (2) there was a policy or custom that led to the violation of plaintiff's rights; (3) the same physician and employees now work for CMS; (4) plaintiff sought relief from the insurance company that insured FCM, but the Magistrate Judge did not address this claim; and (5) counsel for opposing parties were noticed of the plaintiff's motion and

¹On September 30, 2008, the court entered judgment in favor of plaintiff and against defendant FCM in the amount of ten thousand dollars (\$10,000.00). (D.I. 146) Because the enforcement of judgment against FCM has proven futile, plaintiff filed the motion at bar seeking to enforce the judgment against the State of Delaware, Department of Correction, as well as the warden and CMS. (D.I. 158 at 3)

²Contemporaneously, plaintiff moved for an extension of time in which to serve opposing parties with his response (D.I. 160). Because the record reflects that plaintiff filed his objections on the docket and with opposing parties, the motion is moot.

afforded the opportunity to respond (*Id.*);

WHEREAS, the court has considered the motion de novo, including by reviewing the Report and Recommendation, objections and record evidence;³

NOW, THEREFORE, at Wilmington this 10th day of March, 2014,
IT IS HEREBY ORDERED that:

1. Plaintiff's objections (D.I. 159) are overruled as not legally cognizable.

Judgment was entered against a single defendant. The fact that said defendant is insolvent does not entitle plaintiff to seek satisfaction of the judgment from non-parties, especially as against the State of Delaware and its agencies which are protected by 11th Amendment immunity.

2. Magistrate Judge Fallon's Report and Recommendation (D.I. 158) is adopted.
3. Plaintiff's motion to satisfy judgment (D.I. 156) is denied.



United States District Judge

³When reviewing the decision of a magistrate judge on a dispositive motion, the court conducts a de novo review. 28 U.S.C. § 636(b)(1)(B); Fed.R.Civ.P. 72(b)(3).